

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

DELMER T. AND DOROTHY J. LORD,

Debtors

**Bankruptcy No. 04-34695
Chapter 7**

**NOTICE OF MOTION AND MOTION
OBJECTING TO CLAIMED
EXEMPTION**

TO: The Debtors and other entities specified in Local Rule 9013-3.

1. Michael S. Dietz, Trustee of the above bankruptcy estate moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this Motion on October 27, 2004, at 2:30 p.m., in Courtroom 228B, United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

3. Any response to this Motion must be filed and delivered not later than 2:30 p.m. on October 20, 2004, which is seven days before the hearing, or filed and served by mail not later than October 17, 2004, which is ten days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The Petition commencing this Chapter 7 case was filed on August 11, 2004. The case is now pending in this Court.

5. This Motion arises under 11 U.S.C. §§ 522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This Motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, and 9013-5.

6. The Debtors have scheduled three vehicles: 2003 Buick Century valued at \$12,000, 1990 Buick LeSabre valued at \$1,200 and 1991 Chevrolet S-10 pick-up valued at \$1,500 and claimed all as exempt on Schedule C under 11 U.S.C. §522(d)(2) and 522(d)(5). Attached as Exhibit "A" is a true and correct copy of Schedule C filed in this case.

7. Movant objects to the above noted exemptions claimed in that schedule for the following reasons: Debtors scheduled the vehicles jointly on Schedule B when the vehicles are all actually titled to Dorothy only. When these values are calculated into Dorothy's allowable (d)(5) she exceeds that value by \$3,625. She also exceeds her allowable (d)(2) by \$2,950 because the calculations were done assuming both Debtors could exempt that amount jointly.

WHEREFORE, the Trustee moves the Court for an Order denying the claimed exemption of the 2003 Buick Century (VIN#2G4WS52J931171017), 1990 Buick LeSabre (VIN#1G4HR54C5LH451307), 1991 Chevrolet S-10 pick-up (VIN#1GCCS14Z5M2132848).

Dated: October 1, 2004

/s/ Michael S. Dietz

Michael S. Dietz
Registration No. 188517
DUNLAP & SEEGER, P.A.
Attorneys for Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

VERIFICATION

I, Michael S. Dietz, Trustee, the moving party named in the foregoing Notice of Hearing and Motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: October 1, 2004

/e/ Michael S. Dietz

Michael S. Dietz, Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

EXHIBIT “A”

In re **Delmer T. Lord,
Dorothy J. Lord**

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☒ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
☐ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
Real Property			
Homestead located at 56692 175th Street, Austin, Mower County, Minnesota 55912 and legally described as: See Attachment A to Schedule A. Real Property.	11 U.S.C. § 522(d)(1)	1,031.13	140,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
U.S. Bank N.A., 301 N Main St, Austin, MN 55912 - checking account	11 U.S.C. § 522(d)(5)	2,000.00	2,000.00
Community Bank, 805 N Main St, Austin, MN 55912 - checking account	11 U.S.C. § 522(d)(5)	500.00	500.00
Community Bank, 805 N Main St, Austin, MN 55912 - savings account	11 U.S.C. § 522(d)(5)	100.00	100.00
Household Goods and Furnishings			
Ordinary household goods and furnishings - All property located at residence of Debtors unless otherwise indicated.	11 U.S.C. § 522(d)(3)	2,000.00	2,000.00
Wearing Apparel			
Ordinary wearing apparel	11 U.S.C. § 522(d)(5)	1,000.00	1,000.00
Furs and Jewelry			
Dorothy - original wedding ring	11 U.S.C. § 522(d)(4)	200.00	200.00
Mother's wedding ring	11 U.S.C. § 522(d)(4)	125.00	125.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
U.S. Bank Retirement Account	11 U.S.C. § 522(d)(10)(E)	40,000.00	40,000.00
Automobiles, Trucks, Trailers, and Other Vehicles			
2003 Buick Century	11 U.S.C. § 522(d)(2) 11 U.S.C. § 522(d)(5)	5,900.00 6,100.00	12,000.00
1990 Buick LeSabre	11 U.S.C. § 522(d)(5)	1,200.00	1,200.00
1971 Mobile home	11 U.S.C. § 522(d)(5)	5,000.00	5,000.00
1991 Chevrolet S-10 pick-up	11 U.S.C. § 522(d)(5)	1,500.00	1,500.00
Boats, Motors and Accessories			
Boat, motor and trailer	11 U.S.C. § 522(d)(5)	1,500.00	1,500.00

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bankruptcy Case No. 04-34695

DELMER T & DOROTHY J LORD,

Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Emily D. Stenhoff, declare under penalty of perjury that on October 1, 2004, I mailed copies of the following:

Trustee's Notice of Motion and Motion Objecting to Claimed Exempt Property

by US Mail, postage pre-paid, to each entity named below at the address stated below:


OFFICE OF THE US TRUSTEE
1015 UNITED STATES COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

DEAN K ADAMS
ADAMS RIZZI & SWEEN PA
300 1ST ST NW
AUSTIN MN 55912

DELMER T & DOROTHY J LORD
56692 175TH STREET
AUSTIN MN 55912

Executed on October 1, 2004

Signed: _____



Emily D. Stenhoff
DUNLAP & SEEGER, P.A.
P O BOX 549
ROCHESTER MN 55903-0549
(507) 288-9111

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

In re:

**DELMER T. AND DOROTHY J.
LORD,**

Bky Case No. **04-34695**
Chapter 7

Debtors

**ORDER SUSTAINING TRUSTEE'S
OBJECTION TO DEBTORS' CLAIM
OF EXEMPTION**

AT ST. PAUL, MINNESOTA,

This Chapter 7 case came on before the Court on October 27, 2004, for a hearing on the Trustee's objection to the Debtor's claimed exemption of the following property:

2003 Buick Century (VIN#2G4WS52J931171017), 1990 Buick LeSabre (VIN#1G4HR54C5LH451307), 1991 Chevrolet S-10 pick-up (VIN#1GCCS14Z5M2132848)

Appearances, if any, were noted on the record. Upon the documents on file herein and the arguments of counsel:

IT IS HEREBY ORDERED AND DETERMINED:

1. The Trustee's objection is sustained.
2. The Debtor's interest in the 2003 Buick Century (VIN#2G4WS52J931171017), 1990 Buick LeSabre (VIN#1G4HR54C5LH451307) and 1991 Chevrolet S-10 pick-up (VIN#1GCCS14Z5M2132848) are not exempt and are property of the bankruptcy estate to be administered by the Trustee in due course.

Dated: October __, 2004

BY THE COURT:

Gregory F. Kishel
United States Bankruptcy Judge